

Hon. Ricardo S. Martinez

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

PATRICK LEONARD TIERNEY,

Plaintiff,

v.

CARRINGTON MORTGAGE SERVICES,  
LLC; AZTEC FORECLOSURE  
CORPORATION OF WASHINGTON, and  
THE BANK OF NEW YORK MELLON  
F/K/A/ THE BANK OF NEW YORK AS  
TRUSTEE FOR REGISTERED HOLDERS  
OF CWABS, INC., ASSET-BACKED  
CERTIFICATES SERIES 2004-5,

Defendants.

Case No.: 20-CV-01245-RSM

**DECLARATION OF SYNOVA M.L.  
EDWARDS IN SUPPORT OF MOTION TO  
DISSOLVE TEMPORARY RESTRAINING  
ORDER**

**NOTE ON MOTION CALENDAR:  
OCTOBER 2, 2020**

I, Synova M. L. Edwards, am an attorney with Wright, Finlay & Zak, LLP, the attorney of record for Defendants Carrington Mortgage Services, LLC (“Carrington”) and The Bank of New York Mellon f/k/a the Bank of New York as Trustee for Registered Holders of CWABS, Inc., Asset-Backed Certificate Series 2004-5 (“BONY”) (hereafter collectively “Defendants”). In this capacity, I have been assigned the primary responsibility of handling this matter on behalf of Defendants. Based on my personal involvement in this matter, I am intimately familiar with the

1 facts and the issues involved in this case and, if called upon to do so, could and would  
2 competently testify to the truth of the facts set forth herein. I hereby declare:

- 3 1. Upon review of client records, the trustee's sale originally set for April 17, 2020 was  
4 postponed until June 19, 2020 and then again until July 24, 2020.
- 5 2. On July 23, 2020 I confirmed with the King County Superior Court that the initial  
6 payment of \$1,889.51 was deposited into the registry.
- 7 3. On August 18, 2020 following receipt of confirmation that this matter had been  
8 successfully removed, I emailed the Judge's Bailiff in King County Superior Court to  
9 confirm that the August 20, 2020 preliminary injunction hearing was stricken.
- 10 4. On August 19, 2020 the bailiff confirmed that the removal was showing on the docket  
11 and the hearing was stricken. A copy of the Court's email attached hereto as Exhibit 1.
- 12 5. As of the date of this declaration I have had no communication with Plaintiff's counsel  
13 regarding the resetting of the preliminary injunction hearing.
- 14 6. On September 24, 2020 our office checked with the King County Superior Court  
15 Accounting Department who advised that there is currently \$5,668.53 held in the  
16 Registry for King County Superior Court Case No. 20-2-11324-7 SEA.

17 I declare under penalty of perjury under the laws of the State of Washington that the  
18 foregoing is true and correct.

19 Respectfully submitted,

20 Signed in Seattle, WA on September 30, 2020

WRIGHT, FINLAY & ZAK, LLP

21 /s/ Synova M. L. Edwards  
22 Synova M. L. Edwards, WSBA# 43063  
23 *Attorney for Defendants*  
24

**EXHIBIT “1”**

**From:** Court, Ferguson <Ferguson.Court@kingcounty.gov>  
**Sent:** Wednesday, August 19, 2020 8:00 AM  
**To:** Synova M.L. Edwards; Erica Krikorian; jcraft@logs.com  
**Cc:** Joseph T. McCormick III  
**Subject:** RE: Important Message from Court - Ex Parte TRO Tierney v. Carrington, KCSC 20-2-11324-7-SEA

Good morning, Counsel,

Thank you for the email. I now see the Notice filed in ECR under Docket #85. This is to confirm, the Preliminary Injunction set on the Court's calendar for Thursday, 8/20/20 at 1:00 p.m. is stricken. The working papers will be recycled.

Respectfully,

***Kiese L. Wilburn***

Bailiff to Judge Marshall Ferguson | Department 31  
King County Superior Court  
King County Courthouse | E-713  
516 3rd Avenue | Mailroom C-203  
Seattle, Washington 98104  
Phone: (206) 477-1513  
Email: [Ferguson.Court@kingcounty.gov](mailto:Ferguson.Court@kingcounty.gov)  
Web-site: <https://www.kingcounty.gov/courts/superior-court/directory/judges/ferguson.aspx>



 **King County**  
**SUPERIOR COURT**

**IMPORTANT:** In order to avoid inappropriate ex parte contact, you are hereby directed to forward this communication to all other counsel/parties not already copied on this email.

**From:** Synova M.L. Edwards  
**Sent:** Tuesday, August 18, 2020 5:06 PM  
**To:** Court, Ferguson ; Erica Krikorian ; jcraft@logs.com  
**Cc:** Joseph T. McCormick III  
**Subject:** RE: Important Message from Court - Ex Parte TRO Tierney v. Carrington, KCSC 20-2-11324-7-SEA

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Good Afternoon,

This matter was removed to Federal Court today – please confirm that that hearing on the preliminary injunction set for August 20, 2020 has been stricken.

Thanks,

**Synova M.L. Edwards**

Senior Associate Attorney - Washington

Licensed to Practice in Washington and Oregon



612 S. Lucile St., Suite 300

Seattle, WA 98108

Direct: (206) 946-8109

**Wright, Finlay & Zak: Your Western Regional Counsel for California, Nevada, Arizona, Washington, Oregon, New Mexico, Utah, Hawaii, Montana and South Dakota**

For escalated communications on matters, please contact the associate's supervising attorney, Laura Coughlin at [lcoughlin@wrightlegal.net](mailto:lcoughlin@wrightlegal.net) and (206) 691-8663 Ext. 1006

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**From:** Court, Ferguson [<mailto:Ferguson.Court@kingcounty.gov>]

**Sent:** Tuesday, August 18, 2020 9:06 AM

**To:** Erica Krikorian; Synova M.L. Edwards; [jcraft@logs.com](mailto:jcraft@logs.com)

**Subject:** Important Message from Court - Ex Parte TRO Tierney v. Carrington, KCSC 20-2-11324-7-SEA

**Importance:** High

Good Morning,

Yesterday, the Court received E-Working Copies for Carrington's Objection to Untimely Motion or, in the Alternative, Response to Motion for Preliminary Injunction. However, we have not received the E-Working Copies (working papers) for Plaintiff's Motion for Preliminary Injunction.

Please provide to the Court as soon as possible (not by email).

Thank you very much,

**Kiese L. Wilburn**

Bailiff to Judge Marshall Ferguson | Department 31

King County Superior Court

King County Courthouse | E-713

516 3rd Avenue | Mailroom C-203

Seattle, Washington 98104

Phone: (206) 477-1513

Email: [Ferguson.Court@kingcounty.gov](mailto:Ferguson.Court@kingcounty.gov)

Web-site: <https://www.kingcounty.gov/courts/superior-court/directory/judges/ferguson.aspx>



**King County**  
**SUPERIOR COURT**

**IMPORTANT:** In order to avoid inappropriate ex parte contact, you are hereby directed to forward this communication to all other counsel/parties not already copied on this email.

Please be advised that the Clerk's Office does not provide working copies to the court, unless the parties sign up for that additional service. It is the responsibility of the parties to make sure that the court receives working copies prior to a hearing, in accordance with the rules. Please do not email working copies to the bailiff without prior permission.

- Judge Ferguson requires all proposed orders to be submitted in word document format.
- This Court does not accept emailed filings. Stipulations may be emailed after first requesting Court's approval.
- Only correspondence related to setting hearings with oral argument, notices of settlement, striking motions or in response to an email related to trial readiness may include the Bailiff.

**From:** Erica Krikorian <[erica@creerlegal.com](mailto:erica@creerlegal.com)>  
**Sent:** Monday, July 20, 2020 12:03 PM  
**To:** Court, Ferguson <[Ferguson.Court@kingcounty.gov](mailto:Ferguson.Court@kingcounty.gov)>  
**Subject:** RE: Ex Parte TRO Tierney v. Carrington, KCSC 20-2-11324-7-SEA

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We will go with Thursday, 8/20/20 at 1:00 pm.

ERICA ST. LOUIS | CREER LEGAL | ATTORNEY

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**From:** Court, Ferguson <[Ferguson.Court@kingcounty.gov](mailto:Ferguson.Court@kingcounty.gov)>  
**Sent:** Monday, July 20, 2020 12:02 PM  
**To:** Erica Krikorian <[erica@creerlegal.com](mailto:erica@creerlegal.com)>  
**Subject:** RE: Ex Parte TRO Tierney v. Carrington, KCSC 20-2-11324-7-SEA

You are welcome. Just let me know which date/time works best.

Thank you,

**Kiese L. Wilburn**

Bailiff to Judge Marshall Ferguson | Department 31  
King County Superior Court  
King County Courthouse | E-713  
(206) 477-1513  
[Ferguson.Court@kingcounty.gov](mailto:Ferguson.Court@kingcounty.gov)

**IMPORTANT:** In order to avoid inappropriate ex-parte contact, you are hereby directed to forward this communication to all other counsel not already copied on this e-mail.

**From:** Erica Krikorian <[erica@creerlegal.com](mailto:erica@creerlegal.com)>  
**Sent:** Monday, July 20, 2020 11:59 AM  
**To:** Court, Ferguson <[Ferguson.Court@kingcounty.gov](mailto:Ferguson.Court@kingcounty.gov)>  
**Subject:** RE: Ex Parte TRO Tierney v. Carrington, KCSC 20-2-11324-7-SEA

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Thank you!

ERICA ST. LOUIS | CREER LEGAL | ATTORNEY

**From:** Court, Ferguson <[Ferguson.Court@kingcounty.gov](mailto:Ferguson.Court@kingcounty.gov)>  
**Sent:** Monday, July 20, 2020 11:59 AM  
**To:** Erica Krikorian <[erica@creerlegal.com](mailto:erica@creerlegal.com)>  
**Subject:** RE: Ex Parte TRO Tierney v. Carrington, KCSC 20-2-11324-7-SEA

Counsel,

Here are two available dates:

Thursday, 8/20/20 at 9:00 am or 1:00 pm

Friday, 8/28/20 at 9:00 am

Thank you,

***Kiese L. Wilburn***

Bailiff to Judge Marshall Ferguson | Department 31  
King County Superior Court  
King County Courthouse | E-713  
516 3rd Avenue | Mailroom C-203  
Seattle, Washington 98104  
(206) 477-1513  
[Ferguson.Court@kingcounty.gov](mailto:Ferguson.Court@kingcounty.gov)

Court's Web-site: <https://www.kingcounty.gov/courts/superior-court/directory/judges/ferguson.aspx>

Judge Ferguson will not be available July 29, 2020 – August 14, 2020. Please do not note motions without oral argument during this time unless it is an emergency. Thank you.



 **King County**  
**SUPERIOR COURT**

**IMPORTANT:** In order to avoid inappropriate ex-parte contact, you are hereby directed to forward this communication to all other counsel not already copied on this e-mail.

- Judge Ferguson requires all proposed orders to be submitted in word document format.
- All working papers must be submitted through e-working copies to Judge Ferguson.
- This Court does not accept emailed filings. Stipulations may be emailed after first requesting Court's approval. Follow the local court rules that can be found on the King County Superior Court Clerk's web page.
- Only correspondence related to setting hearings with oral argument, notices of settlement, striking motions or in response to an email related to trial readiness may include the Bailiff.

**From:** Erica Krikorian <[erica@creerlegal.com](mailto:erica@creerlegal.com)>  
**Sent:** Monday, July 20, 2020 11:40 AM  
**To:** Court, Ferguson <[Ferguson.Court@kingcounty.gov](mailto:Ferguson.Court@kingcounty.gov)>  
**Subject:** FW: Ex Parte TRO Tierney v. Carrington, KCSC 20-2-11324-7-SEA

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This is a new matter that has been assigned to Judge Ferguson. The case alleges wrongful conduct on behalf of Carrington Mortgage Services and Aztec Foreclosure Corporation in connection with an attempt to foreclose on the plaintiff's home. A foreclosure auction is now scheduled for July 29. There is a motion for a TRO (restraining the auction) pending in the exparte department. In order to issue the TRO, the exparte department needs a date from you for a follow up hearing in your court. Can you provide me with that date?

Thank you,

Erica St. Louis  
ERICA ST. LOUIS | CREER LEGAL | ATTORNEY

---

**From:** Kuvac, Catherine <[Catherine.Kuvac@kingcounty.gov](mailto:Catherine.Kuvac@kingcounty.gov)> **On Behalf Of** SCEXPARTEPHONE  
**Sent:** Monday, July 20, 2020 11:29 AM  
**To:** Erica Krikorian <[erica@creerlegal.com](mailto:erica@creerlegal.com)>  
**Subject:** RE: Ex Parte TRO Tierney v. Carrington, KCSC 20-2-11324-7-SEA

You have to inquire with your IC judge for the date and time... I believe your IC Judge is Judge Ferguson.

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**From:** Erica Krikorian <[erica@creerlegal.com](mailto:erica@creerlegal.com)>  
**Sent:** Monday, July 20, 2020 11:25 AM  
**To:** SCEXPARTEPHONE <[SCEXPARTEPHONE@kingcounty.gov](mailto:SCEXPARTEPHONE@kingcounty.gov)>  
**Subject:** RE: Ex Parte TRO Tierney v. Carrington, KCSC 20-2-11324-7-SEA

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Does this work?

ERICA ST. LOUIS | CREER LEGAL | ATTORNEY



**From:** Kuvac, Catherine <Catherine.Kuvac@kingcounty.gov> **On Behalf Of** SCEXPARTEPHONE  
**Sent:** Monday, July 20, 2020 11:15 AM  
**To:** Erica Krikorian <erica@creerlegal.com>  
**Cc:** SCEXPARTEPHONE <SCEXPARTEPHONE@kingcounty.gov>  
**Subject:** RE: Ex Parte TRO Tierney v. Carrington, KCSC 20-2-11324-7-SEA

Hello,

Clarification per court, we need to have a return date from your IC Judge and an return hearing order in your proposed order. Please resend.

Ex Parte Department Staff

**From:** Kuvac, Catherine **On Behalf Of** SCEXPARTEPHONE  
**Sent:** Monday, July 20, 2020 9:09 AM  
**To:** Moore, Bradford <bramoore@kingcounty.gov>  
**Cc:** SCEXPARTEPHONE <SCEXPARTEPHONE@kingcounty.gov>  
**Subject:** FW: Ex Parte TRO Tierney v. Carrington, KCSC 20-2-11324-7-SEA

Good Morning Commissioner,

Please review, I do not see a hearing date on the proposed Order.

Thank you.

Cathy K.

**From:** Erica Krikorian <erica@creerlegal.com>  
**Sent:** Monday, July 20, 2020 8:48 AM  
**To:** SCEXPARTEPHONE <SCEXPARTEPHONE@kingcounty.gov>  
**Subject:** Ex Parte TRO Tierney v. Carrington, KCSC 20-2-11324-7-SEA

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I am counsel for the plaintiff in the matter entitled Tierney v. Carrington, KCSC 20-2-11324-7-SEA. The case arises out of the Carrington's efforts to foreclose on the plaintiff's home. A foreclosure auction is scheduled for this Friday, July 24. Carrington has refused to continue the auction, even with the current COVID restrictions. As such, on Friday July 17, I filed a motion for a TRO seeking to restrain the July 24 auction (copy attached). Later that afternoon, I received an email stating that the motion was not eligible for filing via the clerk and needs to be presented in person. I apologize for the error. Based upon my review of the May 27, 2020 Emergency Order #18, I thought that I was **precluded** from presenting the motion in person and that it would be heard via phone conference.

I filed a proposed order the motion, copy attached.

The complaint and TRO were sent out for service on Friday. I called ABC this morning to get a copy of the proofs, at which time I learned of a problem with service. They are reserving this morning. If we have a hearing time, I can include the new notice in the package being reserved.

Please let me know, based upon the new COVID guidelines, how I should re-submit the motion so that it can be heard as soon as possible.

Thank you,

Erica Krikorian

ERICA ST. LOUIS | CREER LLGAL | ATTORNEY

11900 NE FIRST STREFT, SUITE 3006  
BELLEVUE, WA 98005

T: 425 | 404 | 2399

F: 425 | 406 | 6898

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